

Items for the Record
March 31, 2004, Hearing on
VA's Procedures for Background Checks and Credentialing
Before the
Subcommittee on Oversight and Investigations
Committee on Veterans' Affairs
U. S. House of Representatives

1. Cong. Boozman requested a complete record of all actions related to the LEIE since 1999.

Response: VHA initiated automated, nationally standardized reviews beginning in the fall of 2002. Prior to this date, local reviews were conducted by the individual medical centers. Attachment 1 provides (1) a consolidated list of all reviews completed and actions taken on "potential matches" between VA employees and vendor names that appeared on the exclusionary list for the time period 1999 through 2002; and (2) an exclusionary list report as of June 24, 2004, providing information since November 2002, when VHA began automated, nationally standardized reviews of the LEIE.

2. Cong. Boozman asked for a timeline related to VA's plans to address the GAO recommendations.

Response: VA is now reviewing the final GAO report and recommendations. The department will submit its response to GAO by July 2004. The response will include an action plan for each recommendation and estimated timeframes for implementation of the recommendations. However, we have committed already to several actions intended to assist in enhancing the credentialing and background review processes. These are outlined in Attachment 2.

3. Cong. Udall questioned whether VA gives access to BSL3 labs to non-U.S. citizens.

Response: Yes, if certain conditions are met and the individual has a need to participate in the research being performed. The current VHA Handbook 1200.6 "Control of Hazardous Agents in VA Research Laboratories" includes specific requirements that must be met before citizens and non-citizens can access a BSL-3 laboratory. Section 7c requires that all personnel obtain formal approval prior to beginning work in a VA research laboratory. Section 7c(1) of the Handbook requires that Human Resource Management Service (HRMS) verify the person's credentials. HRMS and/or the Police Service will submit the appropriate forms as determined by the individual's position risk and sensitivity level and fingerprints to the Office of Personnel Management for completion of a background check. The Associate Chief of Staff for Research and Development must ensure that this has been done. (§ 7c(1)). As a further safeguard, the status of all visas and of WOC employees must be reviewed annually. (§ 7c(7)). Non-US citizens who do not have a valid visa that allows for their

work as employees, WOC, contractors or students are NOT allowed into VA research laboratories or BSL-3 laboratories.

If the person will be working in a BSL-3 laboratory, he/she must obtain specific approval to do so from the Research and Development (R&D) committee (§ 4j). In making the determination to approve the individual to work in a BSL-3 laboratory, the Committee must consider the need for the person to work within the BSL-3, the person's qualification, their citizenship, and visa status (if applicable), and the findings of the suitability assessment.

If Select Agents, Biological Agents or Toxins, as defined in 42 CFR Part 73, 7 CFR Part 331, and 9 CFR Part 121, are stored or used in the research laboratory, all persons are required to have a Security Risk Assessment that has been approved by the Attorney General. They must also receive specific authorization from the R&D committee to work within the laboratory and their status must be reviewed semi-annually. In addition, in compliance with the US Patriot Act (Title 18 USC § 174b), and Federal Regulations 42 CFR Part 73, 7 CFR Part 331, and 9 CFR Part 121, follow-up with appropriate external agencies, such as the Immigration and Naturalization Service, may be necessary to clarify or validate a non-citizen's credentials.

For all VA research laboratories, HRMS is required to assist the research program in issues related to personnel and in reviewing application for citizenship and visa status and the Office of Security and Law Enforcement is responsible for conducting personnel security checks for controlled area access. (§§ 4b and 4c) Careful attention to these procedures is required to ensure that inappropriate or illegal non-citizens are not permitted in VA facilities. Discrepancies must be reported to the local federal Marshal through the VA Police Service and to VA Office of Inspector General. Section 7c(3)(c) states "An Alien (other than an alien lawfully admitted for permanent residence) who is a national of a country determined by the Secretary of State to have repeatedly provided support for acts of international terrorism may not be granted access to any sensitive areas in which select agents (as defined in Title 42 CFR 72) may be present. Individuals meeting any other criteria for identification as a "restricted person" are similarly prohibited from accessing sensitive areas and/or possessing select agents (18 U.S.C. §175b)."

For reference, we are enclosing a copy of VHA Handbook. 1200.6.

4. Cong. Udall asked about the role of research assistants and WOCs.

Response: Research assistants and WOCs may have access if they are participating in the research and they meet the requirements cited in our response above.

Attachment 1

Consolidated List Obtained from VISNs

- Number of VA employees confirmed to be on the LEIE – 41
- Number of separations – 11
- Number of resignations – 6
- Number of reinstatements* – 24
- Number of “potential names” on the LEIE that were confirmed not to be VA employees – 136

* Excluded individuals and entities wishing to again participate in Federal health care programs must apply to the Health and Human Services Office of the Inspector General (HHS OIG) for "reinstatement." An example of a “reinstatement” would be an employee who is originally on the LEIE because of student loan default, and who subsequently develops a repayment plan approved by the HHS OIG. Abiding by the repayment plan would allow the employee to be reinstated.

Exclusionary List Report as of 6/24/04

Number of HHS cases on Exclusionary List: 26 (since November 2002)

Status:

- 14 terminations
- 3 personnel no longer employed and taken off roles
- 3 personnel reinstated per HHS
- 2 personnel not VA employees
- 1 person retired
- 1 resigned
- 1 pending dismissal
- 1 not excluded from employment (placed on the list prior to 8/5/97)

Attachment 2

Actions that VA has committed to take in order to enhance its processes for credentialing and background checks on health care employees:

1. VA will credential physician assistants and advanced practice registered nurses through VetPro starting in April 2004.

Status – Completed

2. VA will develop and issue a policy requirement to query the HIPDB for all new hires by May 2004 and will begin querying HIPDB on current employees prior to their re-appointment. Notification to employee bargaining units will be required prior to the start of this process with an expected start date of August 2004.

Status – VHA drafted a memorandum to all VHA field facilities directing them to perform HIPDB screens on all prospective appointees. The memo was sent to Department of Health and Human Services (HHS) to ensure technical accuracy. On 6/2/04, HHS made VHA aware of an internal HHS problem that occasionally causes a delay in having individuals who have been placed on the List of Excluded Individuals and Entities (LEIE) also placed on the HIPDB. The draft memo originally provided that the HIPDB screen would be performed in lieu of the currently required LEIE screen. The problem noted by HHS will now require that both screens be performed. The memo is currently under revision and is scheduled for issue by 6/15/04. In addition, a process for periodically screening current employees against the HIPDB will be developed and implemented when collective bargaining obligations are met. The target date for this process to be in place is August 2004.

3. VA will put in place long-range goals for continuing and improving compliance with federal regulations and policies on suitability and providing comprehensive guidance to VA employees and managers by the end of May 2004.

Status - VA policy on Human Resources Management Program Evaluation was put into effect on April 1, 2004. The Office of Human Resources Oversight and Effectiveness (O&E) began piloting evaluation site visits in June 2004. Full-scale evaluation visits will begin in FY 2005. O&E is working with Veteran Health Administration's (VHA) Office of Quality and Performance's Credentialing and Privileging staff and the Office of Human Resources Management Recruitment and Placement Policy Service in developing checklists and questions for use during evaluation site visits in order to gauge improved screening of practitioners.

4. VHA facilities are being provided electronic lists of completed investigations upon which they must take immediate action with a report of overdue investigations by April 9, 2004. Instructions have been issued to define responsibility and actions.

Weekly reports will be required until all actions are completed and all investigations are completed with Network coordinators monitoring these reports.

Status – Process is underway and ongoing

5. VHA National Leadership Board had approved a requirement for fingerprint checks to be extended to VHA paid and without compensation (WOC) employees, trainees, volunteer and contractors. VA will fully implement by first quarter of calendar year 2005.

Status - The Management Support Office is currently working with the Credentialing and Suitability Task Force in developing functional specifications and statement of work, market research strategies, vendor evaluations, equipment needs assessment and deployment and training plans. More detailed planning direction will be provided when the task force provides recommendations to the National Leadership Board in September 2004. Target date for implementation is the first quarter of 2005.

6. VHA will verify all existing licenses and certifications with the issuing organizations for both applicants and employee renewals in the near future with VetPro as a possible model.

Status – Feasibility study is underway by the VHA Credentialing and Suitability Task Force

7. VA will enhance verification against existing lists of accredited institutions to avoid accepting education from “diploma mills” after OHRM staff attend OPM-sponsored training in April 2004.

Status - The Department's Suitability and Adjudication Program Office is responsible for developing policy and issuing instruction regarding requirements for verifying the accreditation of educational institutions listed by applications and employees. Staff of that office attended OPM's Diploma Mill training on May 5, 2004, and subsequently issued instructions to Human Resources (HR) Practitioners in VA. Training is also being developed on background investigations, adjudications, and diploma mills that will be delivered to HR practitioners.

Policy in VA Handbook 5005, Part II, Chapter 3, Section B, paragraph 3, requires that the accreditation of educational institutions be verified. Revised and expanded language is being developed to formalize the most current guidance and instructions, and especially to focus on checking schools with accrediting agencies, rather than against lists of diploma mills. Guidance provided on May 28, 2004, provides this focus until the policy can be rewritten.

8. VA will implement policy authorizing the Oversight and Effectiveness Service in OHRM to engage in activities and conduct reviews to by end of April 2004.

Status - VA policy on Human Resources Management Program Evaluation was put into effect on April 1, 2004. The Office of Human Resources Oversight and Effectiveness (O&E) began piloting evaluation site visits in June 2004. Full-scale evaluation visits will begin in FY 2005. O&E is working with Veteran Health Administration's (VHA) Office of Quality and Performance's Credentialing and Privileging staff and the Office of Human Resources Management Recruitment and Placement Policy Service in developing checklists and questions for use during evaluation site visits in order to gauge improved screening of practitioners.

9. VA is attempting to develop an automated process to review the LEIE re contractors and vendors on an on-going basis.

Status – This is an action item identified by the Credentialing and Suitability Task Force with a target completion date of January 2005.

10. VHA will develop criteria for SOARS teams to review pre-employment and post-employment credentialing and background investigation processes and incorporate criteria into site visit assessment tool with site visits in April 2004.

Status – SOARS teams are currently reviewing pre-employment and post-employment credentialing and suitability processes.

11. VHA will prepare checklist for HR process related to background checks and pre-employment screening and provide checklists to employing facilities by May 2004.

Status – Checklist has been drafted and is scheduled for distribution for field testing in June 2004.

12. VA has formed a task force to ensure process for credentialing and background investigations are logical, consistent, complete, and adequate. Task Force findings are to be presented by October 1, 2004, and implementation will occur in early 2005. Specifically, the task force will:
 - a. evaluate current credentialing procedures;
 - b. verify all licenses and certifications of all applicants and employees with the primary source;
 - c. address compliance with policy; and
 - d. assess potential of technology and tools.

Status - The Task Force on Credentialing and Suitability, which has been divided into one subcommittee dealing with credentialing issues and another with suitability issues, has been meeting regularly via teleconference calls. Action plans have been developed by both subcommittees. The entire task force convened on May 17 through 18, 2004 to present preliminary action plans. Task

force recommendations will be provided to the National Leadership Board by October 1, 2004, after which future direction will be finalized.